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MAY 11 1998

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

FCC MAIL ROOM

In the Matter of )  
 )  
Compliance with Applicable ) RM-9259  
Voluntary Band Plans in the )  
Amateur Radio Service )  
  
TO: The Commission

STATEMENT IN OPPOSITION BY  
NO CODE INTERNATIONAL

We submit this Statement in Opposition pursuant to Section 1.405 of the Commission's Rules (47 C.F.R. §1.405) in response to the Request for Declaratory Ruling (the petition), filed by the American Radio Relay League (ARRL) on April 3, 1998.

No Code International

No Code International (NCI) is a grass roots organization of licensed radio amateurs from around the world who believe that demonstrated Morse code proficiency should not be a licensing requirement for any class of amateur radio license. NCI was founded in 1997 by Bruce Perens, K6BP of Berkeley, CA.

In April 1997, NCI established a website on the World Wide Web at <<http://www.nocode.org>> which stated the purpose and

position of NCI. An online means of joining our group was provided and licensed radio amateurs are currently joining our movement at about 100 members a month. This rate is accelerating as more Amateurs find out about our objective. No Code International now has more than 500 members and is governed by an international Board of Directors.

No-Code International, a not-for-profit organization, exists for a single purpose. NCI is dedicated to the abolition of the Morse code testing requirement as a prerequisite for any class of Amateur Radio license. NCI is not opposed to Morse code use on any amateur band. Our opposition centers around the current International Radio Regulations<sup>1</sup> and FCC Rules<sup>2</sup> that mandate Morse code proficiency as a condition of licensing in the Amateur Service.

Morse code is just another mode available to radio amateurs which should not be afforded any special priority over others. While we strongly believe that Morse code should be available to those who want to use it, Morse code proficiency should not be

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<sup>1</sup> Article 32, Section I, Amateur Service, §3, paragraph (1) states, "Any person seeking a license to operate the apparatus of an amateur station shall prove that he is able to send correctly by hand and to receive correctly by ear, texts in Morse code signals. The administrations concerned may, however, waive this requirement in the case of stations making use exclusively of frequencies above 30 MHz." This section was renumbered to S25.5 at the 1995 World Radio Conference.

<sup>2</sup> See Section §97.501 Qualifying for an amateur operator license and § 97.503 Element Standards of the Commission's Rules. (47 C.F.R. §§ 97.501 and 97.503)

required for those who do not wish to use the mode.

Manual radiotelegraphy communications has been superceded by more modern, reliable, accurate, faster and efficient means of communication. In recent years, manual radiotelegraphy has been discontinued as a tactical, messaging and emergency communications method by all parties previously using the mode. We believe that requiring Morse code proficiency is not compatible with the radio amateur's long mandated purpose of contributing to the radio art.<sup>3</sup>

The Morse code requirement in the amateur service is outdated and serves no purpose other than to preclude those who are otherwise qualified from entering the amateur service or upgrading their operator license class. No evidence exists that Morse proficiency is an indicator of a desirable, motivated or potentially a better amateur radio operator.

The value of Morse code communications in the amateur service is primarily recreational in nature and manual telegraphy proficiency should no longer be a compulsory licensing requirement for any class of amateur radio license.

#### The ARRL Petition

The American Radio Relay League, Inc., requests that the

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<sup>3</sup> See Section §97.1(b), Basis and Purpose, (47 C.F.R. § 97.1(b))

Commission issue a Declaratory Ruling equating "good amateur practice" as contemplated in the Part 97 Rules<sup>4</sup> includes compliance with the voluntary band plans adopted and amended "through the cooperative efforts of amateur radio operators across the country and throughout the world." The inference is that any deviation from these band plans is legally unacceptable operating practice.

### Specific Interest

No Code International is concerned that, if RM-9259 is adopted, the Commission will find itself championing the communications interests of the American Radio Relay League membership rather than the public and the amateur community at large which increasingly is adverse to using Morse code communications.

ARRL membership consists primarily of long term licensed amateurs whose primary interest appears to be brief long distance radio communications and contests in the high frequency bands.

Statistically, the constituency of the American Radio Relay League consists of telegraphy proficient radio amateurs who have passed the higher speed 13 and 20 words-per-minute Morse code examinations.

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<sup>4</sup> Section §97.101(a) of the Commission's Rules, (47 C.F.R. §97.101(a)) specifies "In all respects not specifically covered by FCC Rules, each amateur station must be operated in accordance with good engineering and good amateur practice."

The following table dramatically shows that while only 43.5% of the currently licensed amateur radio operator population has passed the Commission's fast code<sup>5</sup> requirements, they account for nearly 70% of ARRL membership. By sharp contrast, only one no/slow code proficient amateur in eight is an ARRL member.

<u>License Class:</u>	<u>Amateur Census:<sup>6</sup></u>	<u>Percent of Total:</u>	<u>ARRL Members:<sup>7</sup></u>	<u>Percent of Total:</u>
Novice	63,972	9.5%	2,180	1.4%
Technician	180,929	26.7%	24,099	15.7%
Tech Plus	<u>137,908</u>	<u>20.3%</u>	<u>22,261</u>	<u>14.5%</u>
No/Slow Code	382,809	56.5%	48,540	31.6%
General	114,986	17.0%	26,079	17.1%
Advanced	105,943	15.6%	39,005	25.5%
Extra	<u>74,153</u>	<u>10.9%</u>	<u>39,533</u>	<u>25.8%</u>
Fast Code	295,082	43.5%	104,617	68.4%
Grand Total:	677,891	100.0%	153,157	100.0%

Thus the constituency of the ARRL clearly consists of

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<sup>5</sup> There are three speed levels currently sanctioned by the FCC. The slow code requirement (Element 1(A)) is 5 words-per-minute. The two faster code requirements are 13 wpm (Element 1(B)) and 20 wpm (Element 1(C)). See Section 97.503(a) of the Commission's Rules (47 C.F.R. §97.503(a)).

<sup>6</sup> The amateur radio operator licensing figures are as of January 1, 1998. They were compiled from the FCC's Amateur Service online data base and exclude amateurs whose license has expired. Such expired licensees remain in the database for an additional two years. This serves as a grace period during which a license may be renewed without re-examination. See Section 97.21(b). (47 C.F.R. §97.21(b))

<sup>7</sup> The ARRL membership breakdown by operator license class was supplied by the American Radio Relay League and was purported to be accurate as of February 1998.

members who are high speed Morse proficient. Primarily due to the popularity of personal computers, satellites and the newer error-correcting digital modes, the communications interests of the amateur radio community has changed. Ten years ago, approximately 60%<sup>8</sup> of all currently licensed radio amateurs had passed a high speed Morse code examination. That percentage is now less than 45% and continues to plummet.

By far, the fastest growing segment of Amateur Radio today is at the no-code level<sup>9</sup>. In its first year (1991), slightly more than 20,000 applicants qualified for the new "Codeless" Technician Class license. By the end of 1997, there were more than 180,000 no code Technicians. Approximately 25% of all licensed radio amateurs now hold that class and a majority of all U.S. amateur radio operators hold no code and slow code licenses.

Technician and slow code (Novice and Tech Plus) licensees are severely under-represented in ARRL's membership. The reason for this is that many holders of these operator licenses resent the League's stance in favor of Morse code requirements. The claim that ARRL is the "national association of amateur radio operators in the United States" is false until ARRL can enroll a representative number of these licensees. Furthermore, eighty

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<sup>8</sup> FCC records show that in 1987 there were 43,608 Extra Class, 98,383 Advanced Class and 114,398 General Class amateur operators or 59.5% of the 431,301 total licensed radio amateurs.

<sup>9</sup> In 1991, the Commission adopted an amateur license class which did not require Morse code proficiency by eliminating the telegraphy requirement from the Technician Class.

percent of all FCC licensed radio amateurs are not ARRL members.

It is also interesting to note that since February 1991, the total number of amateur radio operators has increased by about 200,000 operators. Thus there has been essentially no growth at the amateur operator license classes which require Morse code proficiency. Nearly all of the growth in the U.S. Amateur Service has come at the Technician levels.

#### Position of No Code International

First, the ARRL has not demonstrated that there is a serious enough problem with the voluntary band plans to warrant such a draconian measure as proposed here. Nor has the ARRL demonstrated that the band plan is any part of the regulatory problem - intentional interference has nothing to do with band plans.

Today, the Amateur Radio pursuit is very diversified. What started out as primarily Morse code communications now consists of a very broad array of modern communications modes and emissions. The American Radio Relay League has now been joined by many organizations, many of which advocate specific modes of communications. These include satellite, digital (packet, RTTY, AMTOR, PACTOR, G-TOR, CLOVER, APRS, etc.), repeater, experimenter, amateur television and other special communications interest groups.

The ARRL is now but one of the many factions of Amateur

Radio. As such, it should not be dictating the operating habits of all amateur radio operators by determining the use of their radio spectrum by band planning.

The petition does not state which organizations would develop and maintain these band plans. The clear implication<sup>10</sup>, however, is that the American Radio Relay League and the International Amateur Radio Union<sup>11</sup> - an organization controlled by the ARRL - would be the high frequency (HF) band plan custodians for the Amateur Service. The League does acknowledge the existence of regional and local band plans but says these are "...principally for the VHF, UHF and microwave bands...."

The League states that it recognizes that regional band plans "...which may well conflict with national band plans, is required as an essential element of 'good amateur practice' in the regions in which those band plans apply."

It thus appears that the intention of RM-9249 is to obtain FCC confirmation that the League may dictate the national (and through the IARU), the international band plans -- especially at the HF level -- for all users. Their intent is clearly to

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<sup>10</sup> The ARRL mentions on page 4 of the petition, "...national band plans adopted by the League..." and "[international] band planning, of necessity, must be handled by the IARU."

<sup>11</sup> The International Amateur Radio Union (IARU) is composed of more than 100 national amateur radio societies from around the world. The president of the IARU is Richard L. Baldwin, W1RU a previous General Manager of the ARRL. Larry Price, W4RA, a prior ARRL president is the IARU Secretary. The International Secretariat of the IARU is the American Radio Relay League.



bolster their ability to maintain and defend the status quo ...an unjustifiable position in an avocation whose technology is constantly emerging and changing.

### Conclusions

NCI is concerned that if the FCC declares that the observance of band plans parallels 'good amateur practice' the ARRL/IARU cartel will continue or adopt band plans which will further their narrow agenda. We further believe a case will be made that their version of amateur radio is the only one that should be authorized. This would place the FCC in the untenable position of having to enforce a flawed -- and we believe unenforceable -- concept.

The Commission should not support specific communications modes or emissions to the exclusion of others which may be superior or desired by the majority. Instead it should provide the flexibility and operating environment needed for popular, new and experimental communications modes to flourish. NCI believes that the real purpose behind RM-9259 is to provide a mechanism by which the ARRL can grant the desires of its membership. The amateur community at large is capable of determining its own direction without the need for government intervention.

The ARRL does not represent the interests and desires of the majority of FCC licensed radio amateurs. Instead it is the vocal lobbying arm of a minority of amateur radio operators which

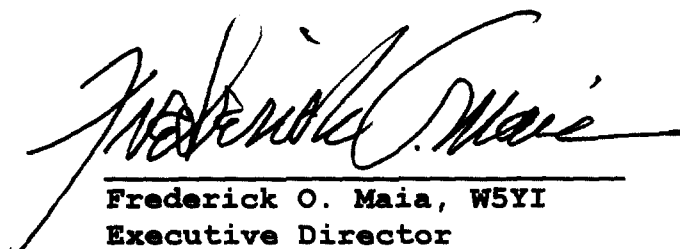
(according to ARRL surveys) wish to preserve Morse code communications.

Therefore, the foregoing considered, No Code International respectfully requests that the Commission not go forward with RM-9259 and dismiss it as not being in the best interest of the Amateur Service or the public.

Respectfully submitted,  
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May 6, 1998

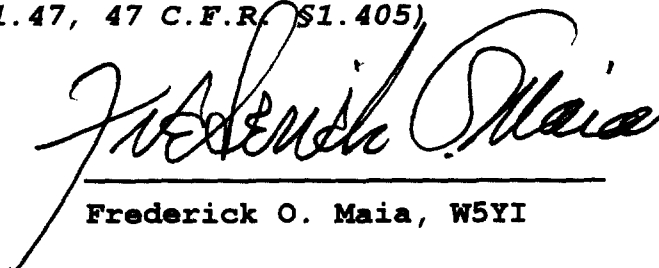


Frederick O. Maia, W5YI  
Executive Director

CERTIFICATE OF SERVICE:

On April 21, 1998, the Commission assigned this petition file number RM-9259 and established a 30 day preliminary comment period. (Public Notice Report #2269) The public comment period ends on May 21, 1998. Therefore these comments are timely filed.

On May 6, 1998, I mailed this document (described as a Statement of Opposition to RM-9259) to ARRL General Counsel Christopher D. Imlay, of the Law Firm of BOOTH, FRERET, IMLAY & TEPPER, P.C., 5101 Wisconsin Avenue, N.W. Suite 307, Washington, DC 20016 as required by Section §1.47 and §1.405 of the Commission's Rules (47 C.F.R. §1.47, 47 C.F.R. §1.405)



Frederick O. Maia, W5YI